



UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
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August 7, 2017

Via ECF

Hon. Jose L. Linares
United States District Judge
U.S. District Court, District of New Jersey
Martin Luther King Building & U.S. Courthouse
50 Walnut Street
Newark, NJ 07101

Re: SEC v. Gentile; 16 Civ. 1619 (JLL)(JAD)

Dear Judge Linares:

We represent the Plaintiff, Securities and Exchange Commission, in the above-captioned action.

Defendant's Reply Brief, filed August 3, 2017 in further support of his Motion to Dismiss the Commission's complaint, included a new argument, not made in his moving papers, regarding the applicability of the "concurrent remedies doctrine." (Reply (DE 39) at 8-9.) Because "arguments made for the first time in reply briefs are deemed waived," K.B. v. Haledon Bd. of Educ., No. 08 Civ. 4647 (JLL), 2009 WL 1905103, at *3 n.2 (D.N.J. June 30, 2009), we respectfully request that the Court disregard that argument. See also Nebraska Land, Inc. v. River Street Idealease, LLC, 188 F. Supp. 3d 390, 398 n.2 (D.N.J. 2016) ("the Court will not entertain the argument, raised for the first time in Defendant's reply brief") (citing Werner v. Werner, 267 F.3d 288, 302 (3d Cir. 2001)).

If the Court is inclined to consider Defendant's new argument, the Commission respectfully requests the opportunity to respond to it.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nancy A. Brown".

Nancy A. Brown
Senior Trial Counsel

cc:

Hon. Joseph A. Dickson (via UPS Overnight)
Adam Ford, Esq. (counsel for Defendant Guy Gentile) (via email)